

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

IN THE MATTER OF:

**Laura Benedict on behalf of Red Barn, Inc.
Conditional Use Application
Findings of Fact and Conclusions of Law**

Pursuant to the provisions of the City of Augusta Land Use Ordinance, the City of Augusta Planning Board has considered the application of Laura Benedict on behalf of Red Barn, Inc., including supportive data, staff review comments, public hearing testimony, and related materials contained in the record. The Planning Board makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. **Project Description:** The request is for a Conditional Use Review as per Section 6.3. The applicant proposes to exceed 60 dB of noise at the property line during outdoor concerts.
2. **Owner:** Red Barn, Inc.
3. **Applicant:** Laura Benedict
4. **Location:** 455 Riverside Drive
5. **Zoning:** Planned Development (PD) District
6. **Tax Map Number:** Map 49, Lot 13
7. **Existing Land Use:** Restaurant
8. **Acreage:** 4.47 acres
9. On June 14, 2013 the applicant submitted the following:
 - a. Conditional Use Application form
 - b. Narratives
 - c. Deed
10. On June 20, 2013 the applicant submitted the following:
 - a. Site plan
11. On June 24, 2013, City staff mailed notices to the owners of properties located within 1,000 feet of the property regarding the public hearing regarding the application.
12. On June 26, 2013, the Kennebec Journal published a legal advertisement for the public hearing regarding the application.
13. On July 9, 2013, the Planning Board held a public hearing regarding the application. The Planning Board conducted a detailed review of the material listed in Items 9 and 10 above, the staff review dated July 3, 2013, and considered

testimony by the applicant and interested members of the public. Three individuals testified against the proposal at the public hearing and one written communication regarding the application was received. The Board voted to deny the application.

Conclusions of Law

In view of the above actions and the application and supporting documentation in the record, the Planning Board makes the following conclusions of law.

6.3.4 Site Plan Criteria Applicable for Conditional Uses

6.3.4.1 Neighborhood Compatibility

- a.
 - i. The Planning Board did not make a determination as to whether the proposal is compatible with and sensitive to the character of the site and neighborhood relative to land uses.
 - ii. *Architectural design.* Architectural design is not applicable to noise.
 - iii. *Scale, bulk, and building height.* Scale, bulk, and building height is not applicable to noise.
 - iv. The Planning Board did not make a determination as to whether the proposal is compatible with and sensitive to the character of the site and neighborhood relative to identity and historical character.
 - v. *Disposition and orientation of the buildings.* Disposition and orientation of buildings is not applicable to noise.
 - vi. *Visual integrity.* Visual integrity is not applicable to noise.
- b. The Planning Board did not make a determination as to whether the elements of the site plan are designed and arranged to maximize the opportunity for privacy by the residents of the immediate area.
- c. The Planning Board did not make a determination as to whether the proposal will maintain safe and healthful conditions in the neighborhood.
- d. The Planning Board did not make a determination as to whether the proposal will have a significant detrimental effect on the value of adjacent properties.

6.3.4.2 Plans and Policies. The proposal is in accordance with the 2007 Comprehensive Plan.

6.3.4.3 Traffic Pattern, Flow and Volume

- a. *Additional traffic.* Additional traffic is not applicable to noise.
- b. *Safe access.* Safe access is not applicable to noise.
- c. *Emergency services.* Noise is not applicable to emergency services.
- d. *Entrance and parking system.* The entrance and parking system is not applicable to noise.

6.3.4.4 Public Facilities

- a. *Public water.* Public water is not applicable to noise.
- b. *Public sewer.* Public sewer is not applicable to noise.
- c. *Electricity and telephone.* Electricity and telephone utilities are not applicable to noise.
- d. *Stormwater.* Stormwater is not applicable to noise.

6.3.4.5 Resource Protection and the Environment

- a. *Sensitive areas.* Sensitive areas are not applicable to noise.
- b. *Air quality.* Air quality is not applicable to noise.
- c. *Water quality.* Water quality is not applicable to noise.
- d. *Sewage and industrial wastes.* Sewage and industrial waste is not applicable to noise.
- e. The proposal is not in the shoreland zone.

6.3.4.6 Performance Standards

- a. The proposal complies with all dimensional standards. The proposal will exceed 60 dB of noise at the property line.
- b. *Noise.* **The outdoor concerts will exceed 60 dB of noise at the property line. The applicant has not addressed the waiver from the sound level limits criteria in section 5.1.15.1.D.1.i and 5.1.15.1.D.1.ii.**
- c. *Intense glare or heat.* Glare or heat is not applicable to noise.
- d. *Exterior lighting.* Exterior lighting is not applicable to noise.
- e. *Landscaping.* Landscaping is not applicable to noise.
- f. *Signs.* Signs are not applicable to noise.

6.3.4.7 Financial and Technical Ability

- a. Technical ability is not applicable to noise.
- b. Financial ability is not applicable to noise.

THEREFORE, the Planning Board hereby denies without prejudice the application of Laura Benedict on behalf of Red Barn, Inc. to exceed 60 dB of noise at the property line during outdoor concerts as described in the findings above.


Corey A. Vose, Planning Board Chair

7-25-13
Date

